City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3003566

Applicant Name: Glenn Priest for Cingular Wireless

Address of Proposal: 910 10th Avenue East

SUMMARY OF PROPOSED ACTION

Master Use Permit to allow expansion of a minor communication utility (Cingular Wireless) consisting of a total of nine panel antennas mounted to a three sector support array (three antennas per sector), on the roof of an existing apartment building. Project includes installation of equipment cabinet in the basement equipment room.

The following approvals are required:

Administrative Conditional Use Review - To allow a minor communication utility in a Multifamily Lowrise family zone. Section 23.57.011.C, Seattle Municipal Code

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code ("SMC")

SEPA DETERMINATION: [ ] EXEMPT [X] DNS [ ] EIS

[X] DNS with conditions

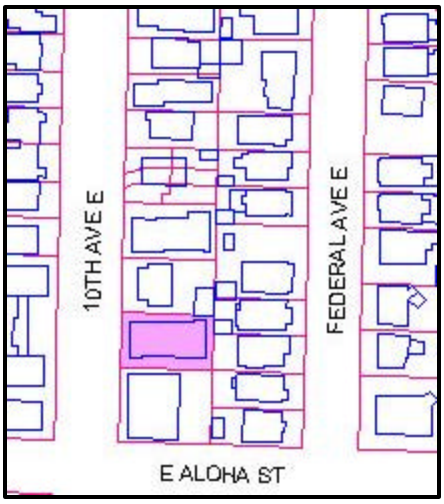
[ ] DNS involving non-exempt grading or demolition involving another agency with jurisdiction

* Early Notice DNS published February 2, 2006

BACKGROUND DATA

Site Location and Description

The development site is located on the east side of 10th Avenue East, on the south half of the block between East Prospect Street to the north and East Aloha Street to the south in Capitol Hill (neighborhood). The site is rectangular in shape and contains a land area of approximately 6,000 square feet. The subject site is modestly sloped, with an 8 foot elevation change over a distance of 100 feet. The site is developed with an existing three-story apartment building, with a



daylight basement and associated open space. The building was constructed in 1957, designed in a modest style, and is nonconforming to current land use multifamily development standards; and as such, any new development activity shall not increase the extent of the existing nonconformity. The site is fully developed with the aforementioned building occupying a significant portion of the development site, modest landscaping and accessory parking. On the rooftop feature, an existing minor communication utility (Cingular Wireless) is located within a corrugated panel screening shroud, with accessory equipment cabinets located in the basement level. Fronting the subject site's west property line is 10th Avenue East, a fully development street with curbs, sidewalk, etc. 10th Avenue East is an arterial that also serves as a bus route for King County Metro Route #'s 7 & 9. Access to the parking garage located within the daylight basement is obtained through a curb cut along 10th Avenue East near the south property line The development site is zoned Multi-family Lowrise 3 (L-3), and is not mapped or otherwise known to be in a designated environmentally critical area within the City of Seattle.

Residential development dominates the area's streetscape. The subject property is within an L-3 zoning band that stretches north and south. Surrounding the multi-family band to the east and west is a lower residential density zone, Single Family 5000. The 900 block front on 10th Avenue East mainly supports small multi-family units (Apartments houses) and single family homes. Capitol Hill's main commercial core located along Broadway East is located within a pleasant walking distance, three blocks to the south of the subject site.

Proposal Description

A Master Use Permit Application proposes to upgrade an existing minor communication utility (Cingular Wireless) on the roof of an existing apartment building. The project includes replacing six old antennas with six new and three additional antennas, for a total of nine antennas, on a three sector rooftop array to be located near the west end of the building. The antenna array will be encased within a faux penthouse shroud compatible with the existing building. The equipment cabinets will be located in a basement equipment room of the existing building.

The highest portion of the proposed minor utility and screening is proposed to be 37.5 feet above existing grade. The height limit for the L3 zone is 30 feet above grade and may extend to 35 feet with a pitched roof that has a minimum slope of 4:12. Approval through an Administrative Conditional Use Permit is required for establishing or expanding a minor communication utility in a residential zone, which is one component of this review.

Public Comment

Date of Notice of Application:	February 2, 2006
Date End of Comment Period:	February 2, 2006
# Letters	1

Issues: One public comment letter was received by DPD, during the comment period. The respondent expressed concern that the addition of antennas would interfere with their view towards the west, and would impact property value. The applicant has designed the sector array to support additional antennas without physical expansion of the screening shroud, which in turn shall not increase view blockage.

ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multifamily Lowrise Zone with the approval of an administrative conditional use permit when the establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, meets the development standards of subsection C and the requirements of this section enumerated below:

1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

The applicant's plans depict a thoughtful integration of the telecommunication facility into the architectural design of the existing building. By proposing a screening technique that employs a faux penthouse presence that is nearly compatible the existing architectural treatment throughout the building's exterior, the applicant has succeeded in nearly designing a cohesive relationship to the existing architectural scheme of the existing building. Architecturally, this screening technique, rooftop penthouse, effectively harmonizes with the existing building, but its surface is incongruous with the existing façade treatment. The existing corrugated fiberglass surface does not match the rough stucco-like exterior finish. The three sector array supporting nine antennas is proposed to be located on the rooftop, within an enclosed structure approximately 10 feet above roof elevation.

The proposed nine antennas will be mounted to a three sector array on the rooftop, within an enclosed structure approximately 10 feet above roof elevation near the west end of the building. As viewed from abutting properties the screening casing (faux penthouse) housing the panel antennas, on face appearance, will look and appear to function like mechanical equipment penthouse. Views from neighboring residential properties will not be further impacted by the addition of the utility. The applicant has provided photographic simulated evidence suggesting that the visual intrusion would not be increased and would be minor in scope.

The site was chosen based on height and location considerations within this residential area to maximize coverage to subscribers in a design that would minimize visual intrusion on neighboring properties. The nine proposed antennas (mounted to a sector array) attached to the rooftop will be fully screened with materials that will be sympathetic in materials and design to existing roof top features, a condition will be added to change the screening surface material (shroud) to be more in keeping with stucco-like finish and colored to be more sympathetically designed to the building's façade, thus satisfying this criterion (See applicant's declarations and submitted plans).

The proposed minor communication utility is not likely to result in substantially detrimental compatibility impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely be impacted any further with the utility's upgrade, in terms of its bulk and scale, its land use once the upgrade is completed there will be no additional visual impacts. As a result of the expansion, cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be shielded by the walls of the room in which it is to be located within the apartment building's basement level. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

As proposed, the minor communications utility will not constitute a commercial intrusion that will be substantially detrimental to the residential character of the surrounding neighborhood. The submitted documents and plans note that the proposed devices will be painted to match the existing color palette of the existing building. Given these existing conditions and additional camouflaging screening techniques of the antennas encased within the screening shroud, a condition will be added to address the resemblance of façade materials to match the surface of the façade; and the location of the associated equipment cabinet within the basement, the proposed minor communications utility would be minimally obtrusive and not detrimental to the residential streetscape character along 10th Avenue East and East Aloha Street.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible in the form of a faux penthouse exterior shell. It will be designed to resemble the existing treatments on the structure's façade and be in keeping with other roof features in order to screen and camouflage the antenna location. The proposed faux form like screening of the antennas and related equipment would blend with the color of the building and is a condition of approval of this permit. The associated cabinet equipment will be located in the existing retrofitted equipment room within the basement level and shall pose no impacts to neighboring properties. The equipment cabinet will be placed within a partitioned room with one access door.

3. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

a. the antenna is at least one hundred feet (100') from a MIO boundary; and

b. the antenna is substantially screened from the surrounding neighborhood's view.

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

4. If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.

The proposed height of the minor communication utility meets the exception criteria permitted under SMC 23.57.011.C.2. Therefore, the proposal complies with this criterion.

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

The proposed minor communication utility is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

SUMMARY

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a Multifamily Lowrise zone, which is above the height limit of the underlying zone, is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by Glenn Priest dated December 5, 2005. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

Short-Term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, does not warrant any conditioning to mitigate for adverse impacts.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

The owner(s) and/or responsible party(s) shall:

1. Revise plans to document exterior finish and color palette for proposed shroud screening of the antennas, cables, and related equipment to blend with the texture and color of the building. This shall be to the satisfaction of the Land Use Planner.

2. Revise plans to detail attractive visual screening fence within the laundry room. This shall be to the satisfaction of the Land Use Planner.

Land Use Code Requirement (Non - Appealable) Prior to Issuance of Master Use Permit

3. The owner(s) and/or responsible party(s) shall provide access and signage in accord with Section 23.57.010E4 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.

SEPA CONDITIONS

During Construction: The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

4. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: April 6, 2006
Bradley Wilburn, Land Use Planner
Department of Planning and Development

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